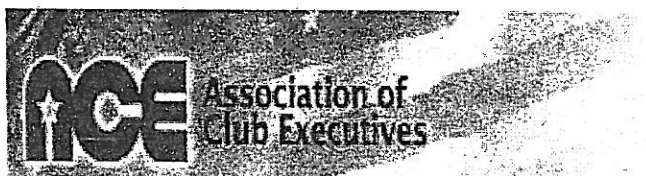


SUMMARIZING AND EVALUATING STUDIES AND REPORTS THAT EXAMINE WHETHER ADULT BUSINESSES CAUSE ADVERSE SECONDARY EFFECTS

PREPARED ON BEHALF OF THE ASSOCIATION OF CLUB
EXECUTIVES (ACE) AND THE FREE SPEECH COALITION



Prepared By:

Robert Bruce McLaughlin AICP, MCIP
McLaughlin Consulting Services, Inc.

Daniel G. Linz, Ph.D. and Mike Yao, M.A.
University of California, Santa Barbara

INTRODUCTION



The Free Speech Coalition is a California trade association for the adult-entertainment industry. Our mission is to ...



The Association of Club Executives (ACE) is the trade association of America's adult nightclubs. Our Mission is to provide and share information concerning the political and legal status of the adult nightclub industry and to further provide a platform for the strategic planning of initiatives to combat negative challenges.

Robert Bruce McLaughlin

More to follow

Daniel G. Linz, Ph.D.

Daniel Linz received his Ph.D. in psychology from the University of Wisconsin-Madison. He shares a joint appointment in the Department of Communication and the Law and Society program at the University of California Santa Barbara. His research involves empirically testing the social psychological assumptions made by the law and legal actors in the area of the First Amendment and freedom of speech. His research spans the topics of media violence, pornography and other sex-oriented entertainment and pretrial publicity, news and race.

Mike Yao, M.A.

Mike Yao is a Ph.D. candidate in the Department of Communication at the University of California, Santa Barbara. His research involves empirically testing assumptions made by the law and legal actors in the area of First Amendment and freedom of speech. His research also includes Internet users' perception of the medium and its implication on policy issues surrounding online privacy.

WHY HAS THIS DOCUMENT BEEN PREPARED?

THE ISSUE

These days, it seems that adult entertainment establishments are regularly confronted with state or municipal attempts to restrict their location (through zoning laws) and/or their business activities (through licensing and regulatory provisions). These restrictions are predicated upon a supposed concern about the "adverse secondary effects" of adult businesses. These "secondary effects" are usually said to include increases in crime, decreases of property values, and other forms of urban blight in the areas surrounding adult entertainment facilities.

Often a city will claim that adult uses cause these adverse secondary effects. This assertion is not based upon any research that has been conducted in regard to the impact of the adult businesses located within that specific municipality, but rather upon "studies" and reports prepared by *other* cities -- some now approaching thirty years old -- that are used as proof of this connection.

Indeed, the United States Supreme Court in the famous Renton decision has stated that a city need not conduct its own study or generate evidence beyond what other municipalities have compiled before being able to enact laws which regulate adult businesses, "so long as whatever evidence the city relies upon is reasonably believed to be relevant to the problem that the city addresses."

When the government attempts to enact laws directed at adult entertainment businesses in this way -- using "secondary effects" information prepared by *other* municipalities -- one of the critical questions becomes: Can these reports be "reasonably believed" by city councils or state legislatures "to be relevant to the problems" that the governmental body is attempting to address?

Can a city council or state legislature reasonably rely upon these studies and reports as justification for enacting adult business regulations?

THE PURPOSE OF THIS REPORT

The purpose of this report is to provide you, the business owner, lobbyist or attorney, with a tool for responding to the contention when it is made in your community that "studies from across the country" have concluded that adult businesses "absolutely" cause adverse secondary effects.

We provide you here with summaries of the reports that governmental bodies have previously relied upon in contending that regulations of adult establishments are necessary because of a concern of adverse secondary effects. We analyze those reports and provide to you some simple critiques of their conclusions and when appropriate the faulty logic used in coming to conclusions not supported by the data. Then, we set forth the *actual* findings of

these reports and give you quotations from them, where applicable, which specifically *refute* the assertion that adult businesses cause harmful secondary effects.

We also summarize for you the “buried” governmental reports that find *no* connection between adult uses in communities and adverse secondary effects; and we provide information to you about the numerous and more recent scientifically sound studies whose authors conclude that adult businesses *do not* cause adverse secondary effects.

Three New Approaches Used by the Government

It used to be that the “studies” and reports relied on by the municipalities and governments were themselves submitted to city and county councils (or to state legislatures -- as applicable), during the consideration of a particular regulation in order to justify its adoption. More recently, however, we have seen three new “approaches” being used both by government and by political groups opposed to adult entertainment when presenting this type of “secondary effects evidence” to a legislative body.

Governments are relying on summaries, not actual studies

First, rather than or in addition to submitting the actual “studies” and reports, we now see the presentation of so-called “summaries” of these materials that have been prepared by groups opposed to adult entertainment or by attorneys who represent such organizations. In reviewing these “summaries,” however, we have found that they are often misleading or inaccurate, and in some instances they outright misstate either the nature of the original report or its conclusions.

Testimony misrepresenting study findings

Second, we have heard testimony given by community members, ministers and other so called experts to city councils and state legislative subcommittees where these individuals rattle off the supposed “findings” of these studies and reports. When we go back and look at the actual documents, we find that the studies have often been misrepresented.

No actual research being undertaken

Third, many municipalities make no independent investigation of secondary effects at all. We have seen “reports” prepared by one city to justify its ordinance, that are then relied upon by another municipality to support enactment of its desired law, where the underlying “report” itself is nothing more than a summary of the previous “studies” that have been mischaracterized earlier. Later reports then rely upon the original erroneous document, and so on, and so on. The end result is that these misrepresentations become so entrenched through erroneous replication in the body “secondary effects” materials that it is virtually impossible to discover where the truth may lie in regard to the earliest reports without going back and evaluating those original materials.

**MANY OF THE REPORTS RELIED ON BY THE GOVERNMENT
ACTUALLY STATE THAT THERE IS NOT A CONNECTION
BETWEEN ADULT BUSINESSES AND ADVERSE
SECONDARY EFFECTS**

Many of the governmental reports relied upon to make the argument that adult business cause adverse secondary effects, particularly those conducted in sound scientific manner, actually state that they *do not* find a connection between adult businesses and adverse secondary effects. In fact, some studies actually find adult uses to be *less problematic* than other similar businesses in the community.

Given the way many of these studies and reports are described by supporters of adult business regulations, we are often quite surprised to discover, after a careful review that many of the authors of these reports actually *deny* having found any connection between adult uses and negative secondary effects. Others find the connection to be at best equivocal.

MANY STUDIES DENY CONNECTION

For example, as we report here, in the highly cited and relied upon 1978, St. Paul, Minnesota, study, *the authors actually disclaim any notion that their conclusions can be applied to adult businesses*. Possibly even more important, the predecessor study to that report -- prepared two months earlier -- *states no fewer than fourteen times that sexually oriented adult businesses do not cause "adverse secondary effects."* Yet, quite astonishingly, the "1978 St. Paul, Minnesota" report is identified in virtually every ordinance of adult businesses as justification for concluding that adult uses cause such community problems.

ACTUAL QUOTES FROM THE STUDIES

In order to ensure that these materials are not misused in any fashion, we provide to you here the *actual quotes from these reports*. You may use these to demonstrate to city council members and state legislators being told that these documents "clearly" demonstrate a connection between adult businesses and adverse secondary effects, that this is not true.

Likewise, where the actual findings of a report are inconclusive, regardless of what someone else may be claiming, we will tell you that.

COURT CASES

There are also legal cases where the courts themselves observe that governmental studies have failed to demonstrate that adult uses cause community problems. Even the most recent decision of the United States Supreme Court on the issue of secondary effects, City of Los Angeles v. Alameda Books, acknowledges that a Los Angeles study completed in 1977 found *no* connection between adult businesses and surrounding area property values. We include these court comments in our summaries.

METHODOLOGICAL FLAWS

Many use such flawed methods that they are now both criticized and discounted even by experts who assist cities in writing these types of laws, leading to the inescapable conclusion that they cannot be reasonably relied upon by municipalities to justify enactment of laws directed at adult businesses. And, the studies which *were* conducted in a scientifically sound manner *do not find that adult businesses cause adverse secondary effects*.

With few exceptions, most of the older studies are so flawed that they simply should not be relied upon by any reasonable person trying to determine whether adult uses are *really* a community problem. After analyzing these reports and studies, we have yet to be presented with any scientifically reliable information upon which we could conclude that adult businesses create adverse secondary effects.

This report has been prepared to assist you in responding to contentions by others that these earlier “studies” and reports absolutely demonstrate a connection between adult entertainment establishments and secondary effects.

We give you comments about the various methods used in preparing these reports in order to provide you with information as to whether they are scientifically sound and should therefore be relied upon or not as the basis for new laws regulating adult businesses.

“BURIED” GOVERNMENTAL STUDIES FIND NO CONNECTION BETWEEN ADULT BUSINESSES AND “ADVERSE SECONDARY EFFECTS”

We have learned through our investigations that a number of *governmental* investigations which failed to find any connection between adult businesses and adverse secondary effects, have been seemingly ignored, and in some instances apparently “buried,” by the government. We have seen instances where governmental entities try to act as if these reports simply do not exist.

These studies are not cited by any later investigations of the secondary effects question, they do not appear in any of the “summaries” submitted to city councils and state legislatures by anti-adult business groups trying to convince legislative bodies that there is simply no question that adult uses cause these types of problems.

Probably for the first time in any written comprehensive form, we include the findings of these often-ignored and in some instances “buried” documents for your information, review and use.

STUDIES THAT HAVE NOT FOUND ADVERSE SECONDARY EFFECTS

In recent years, numerous scientifically sound studies have been conducted which have found no evidence of community harms being associated with adult uses. A number of these studies have been cited for approval by courts around the United States, and others have been published in what are called "peer-reviewed" legal and/or scientific journals; all of these circumstances lending credibility to these reports and the conclusions that they reach.

These investigations have been prepared by experts who have qualified in courts of law to testify about these types of issues, including, among others, the authors of this document -- R. Bruce McLaughlin and Dr. Daniel Linz of the University of California -- as well as Dr. Kenneth Land of Duke University, Dr. Bryant Paul of Indiana University, Dr. Randy Fisher of the University of Central Florida, and Dr. Terry Danner of St. Leo College.

HOW TO USE THIS DOCUMENT AND ACCOMPANYING CD

TWO SEPARATE SETS OF MATERIALS FOR YOU TO USE

First, we have prepared this booklet, which consists of our summaries of these various earlier studies and reports. This provides you information as to what city conducted the investigation and when it was undertaken; what type of adult businesses were involved in the report (so you can determine if the report is relevant to your particular business); the conclusions *actually* reached by the report author(s); critiques, where applicable, of the methods used to reach these conclusions; quoted language from these materials, if any, which *disclaims* an association between adult businesses and any form of adverse secondary uses; and other information about the report we believe you need to know so that you can intelligently discuss its findings in an appropriate context. We provide these materials to you in a summary, and hopefully easily readable, form.

Second, we provide to you a resource tool in the form of a CD/Rom, which contains a searchable database of these summaries but which provides far more information for your use than is contained in these booklet summaries. We have included in the CD a wide range of information in regard to the characteristics of the particular studies and reports, and you can search the database by any of these characteristics in order to pick out from these voluminous materials those reports which may be particularly relevant to the issues you may be facing.

For example, if you want to find out what studies evaluated the impact of video arcades, or cabarets, or nude (as opposed to topless) dancing, you can do that. Similarly, if you want to see just studies that analyzed crime statistics (as opposed to property values or other matters), you can also undertake that limited investigation.

An index of these various categories -- by which you can conduct a specific computer search of the database -- is attached at the end of this booklet.

THE CORE SET OF STUDY SUMMARIES OFTEN USED BY THE GOVERNMENT

A core set of studies has been circulating primarily due to the efforts of attorneys who have worked for the Community Defense Council--a quasi-legal organization--formed to help municipalities pass laws regulating adult businesses.

- Phoenix, Arizona, 1979
- Garden Grove, California 1991
- Los Angeles, California, 1977
- Whittier, California
- Indianapolis, Indiana, 1984
- Minneapolis, Minnesota, 1980
- Cleveland, Ohio 1977
- Oklahoma City, Oklahoma, 1986
- Amarillo, Texas 1977
- Austin, Texas, 1977
- Beaumont, Texas 1982
- Houston, Texas 1983
- Seattle, Washington 1989
- New York City, New York (Times Square) 1994
- Dallas, Texas 1997
- Environmental Research Group 1996
- Tucson, Arizona 1990
- Manatee County, Florida 1987
- State of Minnesota, Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses 1989
- Town and Village of Ellicottville, New York 1998
- Islip, New York 1980
- New York City, New York 1994
- Oklahoma City, Oklahoma 1992
- Houston, Texas 1997
- Newport News, Virginia 1996
- Des Moines, Iowa 1984-1987
- St. Croix County, Wisconsin 1993

ORGANIZATION OF THE STUDY SUMMARIES AND CRITICISMS

For each of the studies we provide you five talking points or bullets.

- 1) What have the governments been saying the study says?
- 2) Does the study include an adult business like yours?
- 3) Is there a contradicting conclusion by the authors themselves?
- 4) How bad is the science behind the study?
- 5) What can you fairly say about the study?

RECOMMENDATIONS CONCERNING HOW TO USE THIS INFORMATION

Bills are before legislatures daily in states and city and local councils across the United States. Many court challenges are also underway. A recent 9th Circuit US Court of Appeals decision has said that each and every bit of evidence the city puts forth as justification of secondary effects must be rebutted by you the plaintiff before the courts will rule in your favor. And, the courts have said that this rebuttal must take place at each stage of the

debate--before the city council, at subcommittee meetings, during hearings on judgments for the city and in the trial court. As the city council moves forward, you must be there to present the truth about these studies.

THE LARGER SEARCHABLE DATABASE WITH OVER 200 STUDIES

More to follow.

WORK FOR THE FUTURE

HELP US OBTAIN MORE STUDIES

It is our intention that these materials become "living" documents, in the sense that we continuously update our database as new information becomes available. We cannot do that, however, without your assistance. If you come across new or additional studies or reports which seek to evaluate whether adult businesses are associated with adverse secondary effects and which are not discussed in this booklet or the accompanying CD please send copies of those materials to either R. Bruce McLaughlin, at McLaughlin Consulting Services, Inc., 900 Gulf Boulevard, Indian Rocks Beach, Florida 34635, or e-mailed to Bruc sandy@aol.com; or to Daniel G. Linz, Ph.D, at The Department of Communication, University of California, Santa Barbara, Santa Barbara, California 93106, or e-mailed to Linz@comm.ucsb.edu.

A CALL FOR NEW "SECONDARY EFFECTS" STUDIES

Local governments are enacting laws based on out-dated and scientifically flawed studies which assert that adult businesses create negative secondary effects in the communities in which they are located. Considerable research suggests that a well-maintained adult business is no more likely to create adverse effects on a community than any other legitimate business.

The adult industry has matured greatly in the two decades since the studies being relied on were conducted and most adult businesses are law-abiding and well-maintained. We feel that it is time for new, unbiased studies to be conducted. Legislation affecting the adult industry should include a requirement that local communities either conduct new studies prior to passage of local ordinances or base such laws on current and demographically comparable studies.

*R. Bruce McLaughlin
Daniel G. Linz, Ph.D and Mike Yao M.A*